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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,941	11/08/2001	Satoru Tachihara	001085.098263	6391

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EXAMINER

FINEMAN, LEE A

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/008,941

Applicant(s)

TACHIHARA ET AL.

Examiner

Lee Fineman

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 05 March 2004.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 13, 14, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 13, 14, 16 and 17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 08 November 2001 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. 09/584,943.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/31/04.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

This Office Action is in response to an amendment filed 5 March 2004 in which claim 13 was amended and claims 16 and 17 were added. Claims 13, 14, 16 and 17 are pending.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura, U.S. Patent No. 5,701,196.

Nakamura discloses a stereoscopic microscope (fig. 13) comprising a common close-up optical system (1) that faces an object and has one and only one optical axis (fig. 13); a pair of imaging optical systems (2, 3) that take object light rays passing through the different region of the close-up optical system, respectively, to form a pair of images, the optical axes of the imaging optical systems being parallel to the optical axis of the close-up optical system; an image taking device (eyes) that captures the images formed on an image taking surface thereof, wherein said common close-up optical system (see fig. 15) comprises a first lens (L2) and a second lens (L3) on the side of the object (fig. 15), wherein said first lens is prior to said second lens on the side of the object (fig. 15), and wherein said first lens has a negative power and said second lens has a positive power; wherein the close-up optical system satisfies the following condition  $f_A > 500$  where  $f_A$  is a focal length (units: mm) of the close-up optical system (see

embodiments 2 and 3, column 3); and wherein said common close-up optical system collimates the object light rays from the object of which image is to be captured by said image taking device (fig. 13). Nakamura discloses the claimed invention except wherein said first lens and said second lens can vary  $f_A$  for focusing said close-up optical system and wherein said second lens is movable along its optical axis for focusing. Nakamura teaches a stereoscopic microscope in another embodiment (fig. 12) wherein said second lens is movable along its optical axis for focusing, which will also vary  $f_A$  for focusing of said close-up optical system (12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify this embodiment of Nakamura to include moving the second lens to provide more flexibility by being able to alter the working distance of the microscope.

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura in view of Mochizuki et al., U.S. Patent No. 5,825,532.

Nakamura further discloses the imaging system comprising a pair of zoom optical systems (2) that take object light rays passing through different region of the close-up optical system, respectively, to form a pair of primary images, the optical axes of the zoom optical systems (fig. 13) being parallel to the optical axis of the close-up optical system; and a pair of relay optical systems (3) that relay the primary images to form a pair of secondary images. Nakamura lacks a pair of field stops that are arranged at the positions of the primary image and an inter-axis device reducing element that brings the object light rays from said relay optical systems close to each other. Mochizuki et al. teaches an imaging system optical adaptor (fig. 2) for a stereoscopic microscope with an image taking device that captures the images formed on an

image taking surface thereof (3); a pair of field stops (206) that are arranged at the positions of the primary image and an inter-axis device reducing element that brings the object light rays from said relay optical systems close to each other (209). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the microscope of Nakamura to include the imaging system optical adaptor of Mochizuki et al. to be able to record the images.

***Response to Arguments***

4. Applicant's arguments with respect to claims 13 and 14 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (571) 272-2313. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*LAF*

LAF  
May 20, 2004

*Mark A. Robinson*  
MARK A. ROBINSON  
PRIMARY EXAMINER